



0000097114

ORIGINAL

**BEFORE THE ARIZONA POWER PLANT AND
TRANSMISSION LINE SITING COMMITTEE**

IN THE MATTER OF THE APPLICATION OF UNS
ELECTRIC, INC., IN CONFORMANCE WITH THE
REQUIREMENTS OF ARIZONA REVISED
STATUTES §§ 40-360, *et seq.*, FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AUTHORIZING THE
CONSTRUCTION OF THE VAIL TO VALENCIA
115kV to 138kV TRANSMISSION LINE UPGRADE
PROJECT, ORIGINATING AT THE EXISTING VAIL
SUBSTATION IN SEC. 4, T.16S., R.15E., PIMA
COUNTY, TO THE EXISTING VALENCIA
SUBSTATION IN SEC. 5, T.24S., R.14E., IN THE
CITY OF NOGALES, SANTA CRUZ COUNTY,
ARIZONA.

) Arizona Corporation Commission

) Docket No. L-00000F-09-0190-00144

) Case No. 144

Arizona Corporation Commission

DOCKETED

MAY 20 2009

DOCKETED BY

AZ CORP COMMISSION
DOCKET CONTROL

2009 MAY 20 A 10:39

RECEIVED

PROCEDURAL ORDER

Requests to intervene in the above captioned Application have been filed by Marshall Magruder and Elizabeth Webb. John Foreman is designee of the Attorney General of Arizona, Terry Goddard, as Chairman ("Chairman") and Presiding Officer of the Arizona Power Plant and Transmission Line Siting Committee ("Committee"). A.R.S. §§ 40-360.01(B)(1) and 40-360.03. As authorized by A.R.S. §§ 40-360.01(C) and (D), 40-360.04 and A.A.C. R14-3-201(E), the Chairman issues the following procedural order,

IT IS ORDERED:

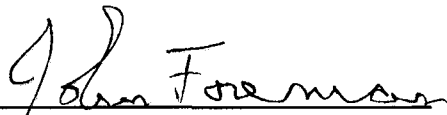
1. As described in the Procedural Order entered on April 27, 2009, in this matter Marshall Magruder and Elizabeth Webb are potential parties ("persons" within the meaning of A.R.S. § 40-360(8)) who do not have a mandatory right to intervene, but who have the right to request to intervene. See, A.R.S. § 40-360.05(A). Although the Rules of Practice and Procedure before the Power Plant and Transmission Line Siting Committee, promulgated by the Arizona Corporation Commission, purport to grant to the Chairman the power to "designate, as he deems appropriate, additional persons as parties to the proceeding" (R14-3-204(D)), A.R.S. § 40-360.05(A) (4) explicitly gives the power to grant requests to intervene to "other persons as the committee ... may at any time deem appropriate." (Emphasis added.) The Commission has the power to make rules of procedure for the Committee because of a legislative authorization. A.R.S. § 40-360.01(D). Therefore, the legislature's statutes take precedence over the Commission's rules. The Committee will make its decision on each request at the Evidentiary Hearing beginning on June 2, 2009. The requests of each will be discussed at the Pre-hearing Procedural Conference, so the Chairman can make

1 an informed recommendation to the Committee, whether to exercise its discretion
2 at the Evidentiary Hearing to grant the request of each to participate as a party.
3 The Applicant has filed a written response to the request to intervene of Marshall
4 Magruder. The Applicant may also file and serve a written response to the
5 request to intervene of Elizabeth Webb on or before 5 pm on May 22, 2009.

- 6 2. Marshall Magruder and Elizabeth Webb have both requested to participate in the
7 Pre-hearing Procedural Conference in this matter on May 26, 2009, at 10 am.
8 Permission is granted to participate by telephone to both. Both may participate by
9 calling promptly at 10 am on May 26, 2009.
- 10 3. Both Marshall Magruder and Elizabeth Webb shall comply with the terms of the
11 Procedural Order of April 27, 2009, pending resolution of their respective
12 requests to participate as parties. A copy of the Order shall be supplied to each.
- 13 4. All exhibits shall be consecutively numbered with the Applicant's exhibits
14 denominated: UNS-1, UNS-2, etc. If Marshall Magruder is allowed to participate
15 as a party by the Committee, he shall consecutively number his exhibits: MM-1,
16 MM-2, etc. If Elizabeth Webb is allowed to participate as a Party by the
17 Committee, she shall consecutively number her exhibits: EW-1, EW-2, etc.

18 IT IS FURTHER ORDERED, the Chairman may amend or waive any portion of
19 this Procedural Order by subsequent Procedural Order, by ruling at a pre-hearing
20 conference or at a hearing.

21 DATED this 20th day of May, 2009

22 
23 John Foreman
24 Assistant Attorney General
25 Chairman
26 Arizona Power Plant and Transmission
Line Siting Committee
john.foreman@azag.gov

1 Pursuant to A.A.C. R14-3-204,
2 The Original and 25 copies were
3 filed this 20th day of May, 2009 with:

4 Docket Control
5 Arizona Corporation Commission
6 1200 W. Washington St.
7 Phoenix, AZ 85007

8 Copy of the above mailed
9 this 20th day of May, 2009 to:

10 Charles Hains
11 Janice Alward, Chief Counsel
12 Arizona Corporation Commission
13 1200 West Washington Street
14 Phoenix, AZ 85007
15 Counsel for Legal Division Staff

16 Jason D. Gellman
17 J. Matthew Derstine
18 Roshka DeWulf & Patten, PLC
19 One Arizona Center
20 400 East Van Buren Street, Suite 800
21 Phoenix, AZ 85004
22 Counsel for Applicant, UNS Electric

23 Marc Jerden
24 Tucson Electric Power Company
25 Legal Department
26 One South Church Avenue, Suite 200
P. O. Box 711
Tucson, AZ 85702-0711

Marshall Magruder
P.O. Box 1267
Tubac, AZ 85646

Elizabeth Buchroeder-Webb
17451 East Hilton Ranch Road
Vail, AZ 85641

1 Marta T. Hetzer
2 Arizona Reporting Service, Inc.
3 2200 North Central Avenue
4 Phoenix, AZ 85004-1481
5
6
7

8 Sara Williams
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26